

BQC-93-007

Date: January 29, 1993

To: Nursing Homes

BQC 93-007
NH 5

From: Larry Tainter, Director
Bureau of Quality Compliance

Subject: Admission/Bed Hold Fees in Nursing Facilities

The Bureau of Quality Compliance has received information that some nursing facilities have been charging an admission fee, processing fee for admission, refundable/non-refundable advance deposit or pre-admission bedhold fee to residents at the time of admission. Recently, the Bureau has received clarification from the Federal Regional Health Care Financing Administration (HCFA) Office regarding admission fees in federally certified nursing homes.

The following are the questions and clarifications received from HCFA.

1. **Can a LTC facility charge a private pay resident admission application fees, advance deposits, and bed hold fees?**

Answer:

Private pay residents may be billed for such fees providing the notice provisions of section 42 CFR 483.10(b)(5) and (6) are met.

2. **Can a LTC facility bill a Medicaid recipient an admission application fee?**

Answer:

Aside from the exceptions specified in the answer to question #4 below, a skilled nursing facility (SNF) may not charge a Medicare beneficiary an admission fee. Such action is prohibited by the requirements at section 42 CFR 489.22(a) and (b). A nursing facility (NF) may not charge admission fees to Medicaid recipients. Such action is prohibited by section 42 CFR 483.12(d)(3).

3. **Can a LTC facility charge a Medicare beneficiary or a Medicaid recipient an advance deposit at the time of admission, which is to be refunded upon the death or discharge of the resident?**

Answer:

Aside from the exceptions specified in the answer to question #4 below, a skilled nursing facility (SNF) may not charge an advance deposit to Medicare beneficiaries because this action would violate section 42 CFR 489.22(a) and (b). A nursing facility (NF) may not charge Medicaid recipients advance deposits because such action violates section 483.12(d)(3). (Prior to April 1, 1992, 483.12(d)(1)(ii).

4. **Can a Medicare beneficiary be charged the fees referenced in questions #1 and #2 (readmission fees and advance deposits) if it is clear that Medicare will not pay for the stay, they have been denied Medicaid payment for the stay, OR they have exhausted their available Medicare skilled nursing facility (SNF) benefits for that period?**

Answer:

A Medicare beneficiary who meets the requirements as outlined in this question is in fact a private pay individual and as such the notice provisions referenced in the answer to question #1 would apply.

5. **Can a LTC facility bill a Medicare beneficiary or Medicaid recipient who is already a resident, for holding a bed vacant during a hospital stay?**

Answer:

Holding a bed vacant during a hospital stay is an option available to Medicare beneficiaries. The beneficiary cannot be required to hold a bed vacant as a condition for readmission. However, if the beneficiary chooses to do so, a SNF or a dually certified facility (SNF/NF) may bill the Medicare beneficiary for holding a bed vacant during a hospital stay. Such an action does not constitute a charge for readmission (as prohibited by section 42 CFR 489.22(d)).

Wisconsin's Medicaid state plan provides bed hold reimbursement for a period not to exceed 15 days for each hospital stay. Bed hold for a therapeutic leave is unlimited in Wisconsin's Medicaid state plan and the therapeutic leave "shall meet the definition of therapeutic/rehabilitative program under s. HSS 101.03(175)." In addition the therapeutic leave is at the approval of the physician and included in the physician's plan of care which defines the rationale for the leave, the anticipated goals of the leave as well as any limitations regarding the frequency or duration of the therapeutic leave.

A NF may not charge a Medicaid recipient over and above what the Medicaid program would pay under its bed-hold policy (See 42 CFR 447.40 and 447.15). Section 42 CFR 483.12(b)(3) requires that the facility follow a written policy that specifies if a Medicaid eligible resident is hospitalized or on therapeutic leave beyond the bed-hold period, then the facility must readmit this recipient upon the first availability of a bed, in a semi-private room, if the individual requires facility services.

6. **Can a NF bill a Medicare beneficiary or a Medicaid recipient to hold a bed prior to admission?**

Answer:

Bed-hold payments, authorized by regulations at section 42 CFR 447.40 and acknowledgeable in section 1919(c)(2)(D) of the Act, apply only to payments made on behalf of Medicaid recipients who have already been admitted to a facility and are temporarily absent from it. There has never been a practice of making bed-hold payments prior to a recipient's admission to a facility. Billing a Medicaid recipient for bed-hold prior to admission is prohibited by section 1919(5)(A)(iii), which specified a NF may not, with respect to a Medicaid eligible individual, "...charge, solicit, accept, or receive...any gift, money, donation, or other consideration as a precondition of admitting (or expediting the admission of) the individual to the facility."

A Medicare beneficiary who is not also a Medicaid recipient is considered the same as a private pay individual with regard to a prospective admission to a NF. The above referenced notice provisions would therefore apply.

Failure to comply with these regulations can result in the issuance of a Federal deficiency and/or termination of your Provider Agreement. Referrals may also be made to the Wisconsin Bureau of Health Care Financing and the Health Care Financing Administration in Chicago for additional action, including recoupment of funds.

If you have any questions regarding this information, please contact the Field Operations Manager assigned to your facility.